

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Case No. 19-00047-01-CR-W-HFS
DONNELL MULLINS)	
)	
)	
Defendant.)	

ORDER

In two Reports and Recommendations (Docs. 45 and 53) Magistrate Judge Maughmer supports defendant's motion to suppress (Doc. 28) because of a Fourth Amendment violation; that is, defendant was temporarily "seized" and interrogated and a firearm was discovered during a compulsory stop with no justification beyond a police officer's hunch. The Government's current position is that the officer's mistaken compulsory stop was insufficiently flagrant to justify suppression of evidence. I, however, accept the proposed findings and rationale to the contrary. Thus, the Government's motion for reconsideration (Doc. 47) is

DENIED, and defendant's motion to strike the Government's motion (Doc. 49) is also DENIED.

This case is a variation on the recent Eighth Circuit ruling, United States v. Lowry, 935 F.3d 638, 643 (2019), where a consensual encounter was by-passed because the officer was "busy managing a tense situation." The panel made clear that "we do not intend to close the door to future challenges" similar to that in Lowry, Id. at 644. The present case is more like United States v. Hernandez, 2017 WL 4391713 (W.D.Mo.), where a motion to suppress was recommended in a rather similar situation.

After review of the record and briefing the Reports and Recommendations (Docs. 45 and 53) are ADOPTED and the motion to suppress (Doc. 28) is GRANTED.

/s/ Howard F. Sachs

HOWARD F. SACHS
UNITED STATES DISTRICT JUDGE

March 6, 2020
Kansas City, Missouri